

LAW OFFICE OF
Kristy Grafton Goldberg, LLC
ATTORNEY AT LAW

February 2, 2018

RECEIVED
FEB 06 2018
SC Court of Appeals

Jenny Abbott Kitchings
Clerk of Court, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RE: *State of South Carolina v. Timothy Wright*, Appellate Case No. 2015-000636

Dear Ms. Kitchings,

Please allow this letter to serve as the requested response from your Court's Order dated January 26, 2018.

On December 8, 2017 I received the decision of the Court in this matter. On that same date I wrote Mr. Wright a letter and provided a copy of the Court's decision. Mr. Wright has previously provided a copy of this letter to the Court but I am attaching another copy out of an abundance of caution. In this letter I advised him of the outcome and the fact that the Court's ruling was based on the determination that trial counsel did not properly preserve the issue for appeal. I advised him that I believed his best recourse would be through PCR, but I would file whatever documents necessary to challenge the appellate action further if he wanted me to. I notified him that he would need to let me know if he wants me to challenge the appellate decision by December 21st. I did not hear from Mr. Wright or any one on his behalf before December 21st.

The next document I received from Mr. Wright was dated December 10 but not received by me until Friday, December 22. (I was out of the office December 19-21 on vacation, so to be fair to Mr. Wright it could have arrived during that time). In this letter (attached) he clearly states that he does not want me to continue to appeal, and that he wanted to handle all of his "due process" matters from this point on and stated his intention to file Writ of Cert. He did not ask me to file a writ of cert, and from the contents of the letter I believe he was actually instructing me not to. He specifically asked that I file whatever paperwork was necessary to request that I be relieved as counsel from his case. Due to the fact that the Court was copied on this letter and made aware of his requests, and that there were no pending filings or motions before the Court at that time, I did not file anything further, assuming that clarification of counsel would only be necessary if and when Mr. Wright filed anything further with the Court.

On December 21 the Supreme Court sent Mr. Wright a letter informing him that no such motion to relieve counsel was necessary. I received a copy of this letter on or about December 27 and felt comfortable and reassured that I did not need to file any such motion.

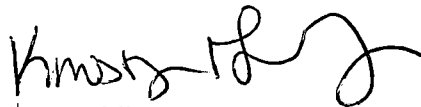
I later received documentation from Mr. Wright dated January 15, 2018. I am not sure what date I received it. Again, in this letter Mr. Wright informed me that he was unhappy with my services. He attached documents that he stated were "being filed" before the Court of Appeals and sent me a "copy for [my] records." He then asked me to "file the motion for a rehearing please." The attached affidavit of service stated that he served the motion on the Court of Appeals. Regardless, I am attaching to this letter a full copy of Mr. Wright's letter and attached Motion. If Mr. Wright's Motion was not previously filed with the Court I ask that it be filed at this time on his behalf.

On January 29 I received an Order from the Court asking that I file a response to Appellant's motion to relieve counsel within ten days. This letter constitutes my formal response. I do not oppose Appellant's motion to relieve counsel if it is his desire to appear pro se in this matter, but I leave that to the discretion of the Court. If any statements I made to Mr. Wright in the enclosed materials were misleading to the extent that any deadlines were missed in this case, I ask that Mr. Wright be given the benefit of the doubt and allowed to file his motion for a rehearing out of time.

Pursuant to the attached documentation, it appears to me that Mr. Wright has formally moved to file his Motion for Rehearing out of time, and I ask this Court to consider that Motion. If this Court intends to keep me on as counsel, requiring me to file anything further, I would ask that the Court let me know.

Please let me know if you have any questions or concerns regarding this matter.

Respectfully,



Kristy Goldberg

CC: Timothy Wright, SCDC # 354842
Lieber Correctional Institution
136 Wilborn Avenue
P.O. Box 205
Ridgeville, SC 29472

Alphonso Simon, Jr.
Assistant Attorney General
Post Office Box 11549

Columbia, South Carolina 29211-1549

Robert Dudek
Post Office Box 11589
Columbia, South Carolina 29211

LAW OFFICE OF
Kristy Grafton Goldberg, LLC
ATTORNEY AT LAW

December 8, 2017

Timothy Wright, SCDC # 354842
Lieber Correctional Institution
136 Wilborn Avenue
P.O. Box 205
Ridgeville, SC 29472

RE: *State of South Carolina v. Timothy Wright*, Appellate Case No. 2015-000636

Mr. Wright,

Please find enclosed the Court's decision on your Appeal. The bad news is that your conviction was affirmed. The good news, is that the Court ruled that it was because your attorney waived the objection and did not preserve it for Appeal, which makes it a good argument for Post-Conviction Relief. At this point we can appeal this decision to the Supreme Court and ask if they will review your case, but that could take a year or more and they may not review your case at all. I do not think it would be the best use of your time. However, if you would like for me to continue the Appeal I will need to file something by December 21st. Please write to me immediately or have someone call me at 803-607-6633 and let me know that you want me to continue with this Appeal.

The other option would be to move on from the Appeal and file for Post-Conviction Relief so that process can begin as soon as possible. I think this is really what you would prefer to do anyway because you can challenge your conviction and not just your sentence. An Application is enclosed. You can file your Application directly with the Charleston Clerk of Court any time BEFORE December 6, 2018. I would suggest that you file it sometime in January or February. In answering questions 10 and 11 you need to state that you are alleging "ineffective assistance of counsel" along with whatever specific information you want to include. An attorney should be appointed to represent you (or you can hire one) and the attorney can Amend your Application later if necessary. PLEASE ASK YOUR ATTORNEY TO CONTACT MY OFFICE so that I can share with them several ideas I have for grounds for Post-Conviction Relief.

If you have any questions in the meantime please feel free to contact me at the below address.

Sincerely,


Kristy Goldberg

TIMOTHY WRIGHT
#354832 WANDO A-112
LIEBER C.I. P.O. BOX 205
IDGEVILLE, S.C. 29472

IN RE: TERMINATION OF LEGAL COUNSEL IN THE FORM OF MRS. KRISTY
GOLDBERG.

TO: ATTORNEY KRISTY GOLDBERG ET. AL.,

MS. GOLDBERG I AM IN RECEIPT OF YOUR LETTER DATED
DECEMBER 8, 2017. NO MAM I DO NOT WANT YOU TO CONTINUE MY APPEAL.
WITH ALL DUE RESPECT MAM, YOU'RE FIRED. I WILL HANDLE ALL MY
DUE PROCESS MATTERS FROM THIS POINT ON. I INTEND TO EXERCISE
MY CONSTITUTIONAL RIGHT OF SELF REPRESENTATION IN SEEKING MY
WRIT OF CERT.. PLEASE FILE BEFORE THE S.C. COURT OF APPEALS
IMMEDIATELY WHATEVER PAPERWORK THAT IS NECESSARY FOR THAT COURT
AND PARTIES TO KNOW THAT YOU ARE NO LONGER MY LEGAL COUNSEL
AND I INTEND TO DO ANY ADDITIONAL OR NECESSARY FILING REQUIRED
TO PERFECT MY DUE PROCESS MATTERS. AS OF THE DATE OF THIS LETTER
YOUR SERVICES ARE OFFICIALLY TERMINATED. I THANK YOU IN ADVANCE.
STILL REMAIN,

RESPECTFULLY,
TIMOTHY WRIGHT



DECEMBER 10, 2017

CC: S.C. COURT OF APPEALS
S.C. SUPREME COURT
S.C. ATTORNEY GENERAL

AFFIDAVIT OF SERVICE

I, TIMOTHY WRIGHT, DO HEREBY CERTIFY, THAT I HAVE MAILED AND OR SERVED A COPY OF A TERMINATION LETTER DATED DECEMBER 10, 2017, ON ATTORNEY KRISTY GOLDBERG 1720 MAIN STREET, SUITE 303 COLUMBIA, S.C. 29201; THE S.C. COURT OF APPEALS 1015 SUMTER STREET COLUMBIA, S.C. 29201; THE S.C. ATTORNEY GENERAL P.O. BOX 11549 COLUMBIA, S.C. 29211 AND THE S.C. SUPREME COURT P.O. BOX 11330 COLUMBIA, S.C. 29211, BY U.S. MAIL POSTAGE PREPAID BY PLACING IT IN THE INSTITUTION MAILBOX ON DECEMBER 15, 2017.

RESPECTFULLY,
TIMOTHY WRIGHT

A handwritten signature in cursive script, appearing to read "Timothy Wright", written in black ink.

DECEMBER 15, 2017

TIMOTHY JAMES WRIGHT
#354842 WANDO A-112
LIEBER C.I P.O. BOX 205
RIDGEVILLE, S.C. 29472

IN RE: CASE 2015-000636

TO: ATTORNEY KRISTY G. GOLDBERG,

MAM, WITH ALL DUE RESPECT. I AM NOT IMPRESSED WITH THE WAY THAT THIS CASE WAS HANDLED. BY YOUR ACTIONS YOU HAVE PLACED ME IN PROCEDURAL DEFAULT ON MY ACCESS TO SEEK WRIT OF CERT. BEFORE THE S.C. SUPREME COURT. THE ATTACHED DOCUMENTS ARE BEING FILED BEFORE THE COURT OF APPEALS IN HOPES OF RECITIFYING THE MATTER. A COPY IS ENCLOSED FOR YOUR RECORDS. FILE THE MOTION FOR A REHEARING PLEASE.

RESPECTFULLY,
TIMOTHY WRIGHT

JANUARY 15, 2018

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM CHARLESTON COUNTY
THE HONORABLE J.C. BUDDY NICHOLSON, JR., CIRCUIT COURT JUDGE

APPELLATE CASE NO. 2015-000636

THE STATE OF SOUTH CAROLINA,

RESPONDENT

Vs.

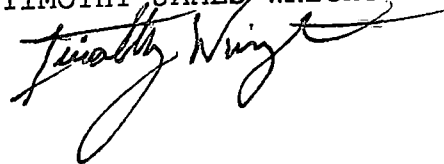
TIMOTHY JAMES WRIGHT,

APPELLANT

AFFIDAVIT OF SERVICE

I, TIMOTHY JAMES WRIGHT, DO HEREBY CERTIFY, THAT I HAVE MAILED AND OR SERVED A COPY OF AN AFFIDAVIT OF FACTS GIVING JUDICIAL NOTICE; MOTION TO RELIEVE AND OR REINSTATE LEGAL COUNSEL AND REQUIRE HER TO FILE MOTION FOR REHEARING; MOTION FOR SANCTIONS; IN THE ALTERNATE MOTION TO FILE FOR A REHEARING OUT OF TIME AND OR BEYOND THE TIME LIMIT AND MOTION TO MOTION THEREFOR, ON THE S.C. COURT OF APPEALS 1015 SUMTER STREET COLUMBIA, S.C. 29201, ON THE S.C. ATTORNEY GENERAL P.O. BOX 11549 COLUMBIA, S.C. 29211 AND ON ATTORNEY KRISTY GOLDBERG 1720 MAIN STREET, SUITE 303 COLUMBIA, S.C. 29201, BY U.S. MAIL AND OR CERTIFIED, POSTAGE PREPAID, BY PLACING IT IN THE INSTITUTION MAILBOX ON JANUARY 15, 2018.

RESPECTFULLY,
TIMOTHY JAMES WRIGHT

A handwritten signature in cursive script, appearing to read "Timothy Wright", written in black ink.

JANUARY 15, 2018

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM CHARLESTON COUNTY
THE HONORABLE J.C. BUDDY NICHOLSON, JR., CIRCUIT COURT JUDGE

APPELLATE CASE NO. 2015-000636

THE STATE OF SOUTH CAROLINA,

RESPONDENT

Vs.

TIMOTHY JAMES WRIGHT,

APPELLANT

AFFIDAVIT OF FACTS GIVING JUDICIAL NOTICE; MOTION
TO RELIEVE AND OR REINSTATE LEGAL COUNSEL AND REQUIRE
HER TO FILE MOTION FOR REHEARING; MOTION FOR SANCTIONS;
IN THE ALTERNATIVE MOTION TO FILE FOR A REHEARING
OUT OF TIME AND OR BEYOND THE TIME LIMIT AND MOTION TO
MOTION THEREFOR

TO: THE S.C. COURT OF APPEALS,
THE S.C. ATTORNEY GENERAL,
ATTORNEY KRISTY GRAFTON GOLDBERG ET. AL.,

HERE THE COURT AND PARTIES WILL FIND:

(1) EXHIBIT, "ATTORNEY". THIS IS A COPY OF THE LETTER

SENT TO THE APPELLANT BY ATTORNEY KRISTY G. GOLDBERG DATED DECEMBER 8, 2017.

(2) EXHIBIT, "S.C. SUPREME COURT". THIS IS THE LETTER SENT TO THE APPELLANT BY THE S.C. SUPREME COURT DATED DECEMBER 21, 2017.

WHAT JUST OCCURRED WITHIN THIS CASE IS HIGHLY INAPPROPRIATE. THE APPELLANT VEHEMENTLY OBJECT TO THIS INEFFECTIVE ASSISTANCE OF COUNSEL AND VIOLATIONS OF THE CODE OF PROFESSIONAL ETHICS DONE IN THE HANDLING OF THIS CASE BY ATTORNEY KRISTY GOLDBERG. THE APPELLANT RECENTLY SENT THE S.C. COURT OF APPEALS AND PARTIES A COPY OF A LETTER TERMINATING STATE APPOINTED COUNSEL FOR AMONG OTHER REASONS, BECAUSE BY THE FRAUD THAT OCCURRED IN ATTORNEY GOLDBERG'S SENDING THE APPELLANT THIS ATTACHED LETTER. ATTORNEY GOLDBERG CLEARLY INFORMS THE APPELLANT, "AT THIS POINT WE CAN APPEAL THIS DECISION TO THE S.C. SUPREME COURT", GIVING THE INDISPUTABLE INDICATION THAT THE APPEAL WAS COMPLETED BY WHAT WAS REQUIRED BY DUE PROCESS LAW TO NOW FILE PETITION FOR WRIT OF CERTIORARI BEFORE THE S.C. SUPREME COURT. ATTORNEY GOLDBERG THEN STATES, "THE OTHER OPTION WOULD BE TO MOVE ON FROM THE APPEAL AND FILE POST CONVICTION RELIEF SO THAT PROCESS CAN BEGIN AS SOON AS POSSIBLE. I THINK THAT THIS IS REALLY WHAT YOU WOULD PREFER TO DO ANYWAY BECAUSE YOU CAN CHALLENGE YOUR CONVICTION AND NOT JUST YOUR SENTENCE".

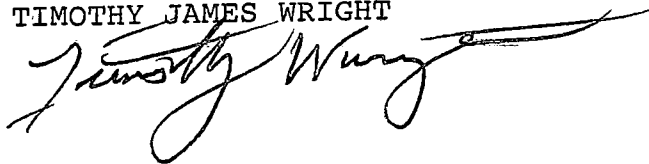
WHAT THE APPELLANT WOULD HAVE PREFERRED IS NOT TO BE SUBJECTED TO THIS FRAUD AND VIOLATIONS OF THE CODE OF PROFESSIONAL ETHICS FOR ATTORNEYS, AND THAT THE ATTORNEY COMPLETED MY DUE PROCESS MATTERS BEFORE THE COURT OF APPEALS AND TIMELY SOUGHT A REHEARING ON THIS APPEAL WHICH WOULD HAVE PERMITTED ME TO SEEK PETITION FOR WRIT OF CERTIORARI BEFORE THE S.C. SUPREME COURT. I OBJECT. THE FACT THAT ATTORNEY GOLDBERG SENT ME A PCR APPLICATION AND BY WHAT IS ASSERTED IN HER LETTER. SHE IS TELLING ME NO OTHER REQUIREMENT BEFORE THE COURT OF APPEALS REMAIN.

BY THE LETTER SENT TO ME FROM THE S.C. SUPREME COURT, DESPITE WHAT ATTORNEY GOLDBERG ASSERTED IN HER DECEMBER 8, 2017

LETTER, ATTORNEY GOLDBERG DID NOT COMPLETE THE FULL PROCESS REQUIRED WITHIN THE S.C. COURT OF APPEALS. HAD I KNOWN THIS. I WOULD HAVE NEVER SOUGHT TO TERMINATE HER BY THE LETTER PREVIOUSLY SENT, UNTIL ATTORNEY GOLDBERG SOUGHT THE REHEARING AS WAS REQUIRED BY DUE PROCESS LAW TO ENTER INTO THE S.C. SUPREME COURT. I OBJECT. IF THE S.C. COURT OF APPEALS HAS ACCEPTED MY TERMINATION LETTER I OFFICIALLY MOVE TO RETRACT IT PURSUANT TO SEEKING LEAVE TO RELIEVE COUNSEL. I MOTION THAT COUNSEL BE RELIEVED AND OR REINSTATED. IF ATTORNEY GOLDBERG IS STILL OFFICIALLY COUNSEL ON RECORD. I MOTION FOR SANCTIONS AND MOTION TO RELIEVE ATTORNEY GOLDBERG AND THAT THE S.C. COURT OF APPEALS NOW APPOINT NEW LEGAL COUNSEL AND THAT NEW LEGAL COUNSEL BE PERMITTED TO FILE A MOTION FOR A REHEARING OUT OF TIME AND OR BEYOND THE TIME LIMIT. I MOTION PURSUANT TO RELIEVING COUNSEL THAT ATTORNEY GOLDBERG BE SANCTIONED, AND IF THE COURT DO NOT RELIEVE HER, THAT SHE BE REQUIRED, THAT SHE SUBMIT THE REQUESTED MOTION FOR REHEARING OUT OF TIME AND OR BEYOND THE TIME LIMIT IN ORDER THAT THIS APPEAL BE PERFECTED TO ALLOW FURTHER REVIEW BEFORE THE S.C. SUPREME COURT VIA WRIT OF CERT., AS IS MY DUE PROCESS RIGHT TO SEEK SUCH REVIEW.

IN THE ALTERNATIVE. IF THE S.C. COURT OF APPEALS HAS INDEED ACCEPTED MY TERMINATION LETTER AND CONSIDERS THE APPELLANT AS PRESENTLY PRO SE. I THEN OFFICIALLY MOTION OUT OF TIME AND OR BEYOND THE TIME LIMIT FOR A REHEARING ON THIS CASE WHICH WOULD THEN ALLOW ME TO SEEK PETITION FOR WRIT OF CERTIORARI BEFORE THE S.C. SUPREME COURT. ANYONE OF THE AFOREMENTIONED WOULD BE SUFFICIENT TO ADDRESS THIS MISCARRIAGE OF JUSTICE THAT JUST OCCURRED BEFORE THE HONORABLE S.C. COURT OF APPEALS.

RESPECTFULLY SUBMITTED,
TIMOTHY JAMES WRIGHT



JANUARY 15, 2018

Kristy Grafton Goldberg, LLC

ATTORNEY AT LAW

December 8, 2017

Timothy Wright, SCDC # 354842
Lieber Correctional Institution
136 Wilborn Avenue
P.O. Box 205
Ridgeville, SC 29472

Exhibit
"Appellate"
=

RE: *State of South Carolina v. Timothy Wright*, Appellate Case No. 2015-000636

Mr. Wright,

Please find enclosed the Court's decision on your Appeal. The bad news is that your conviction was affirmed. The good news, is that the Court ruled that it was because your attorney waived the objection and did not preserve it for Appeal, which makes it a good argument for Post-Conviction Relief.

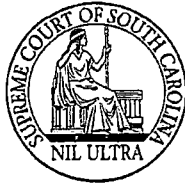
* At this point we can appeal this decision to the Supreme Court and ask if they will review your case, but that could take a year or more and they may not review your case at all. I do not think it would be the best use of your time. However, if you would like for me to continue the Appeal I will need to file something by December 21st. Please write to me immediately or have someone call me at 803-607-6633 and let me know that you want me to continue with this Appeal.

* The other option would be to move on from the Appeal and file for Post-Conviction Relief so that process can begin as soon as possible. I think this is really what you would prefer to do anyway because you can challenge your conviction and not just your sentence. An Application is enclosed. You can file your Application directly with the Charleston Clerk of Court any time BEFORE December 6, 2018. I would suggest that you file it sometime in January or February. In answering questions 10 and 11 you need to state that you are alleging "ineffective assistance of counsel" along with whatever specific information you want to include. An attorney should be appointed to represent you (or you can hire one) and the attorney can Amend your Application later if necessary. PLEASE ASK YOUR ATTORNEY TO CONTACT MY OFFICE so that I can share with them several ideas I have for grounds for Post-Conviction Relief.

If you have any questions in the meantime please feel free to contact me at the below address.

Sincerely,


Kristy Goldberg



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211
TELEPHONE: (803) 734-1080
FAX: (803) 734-1499

December 21, 2017

Mr. Timothy James Wright, #354842
Lieber Correctional Institution
P.O. Box 205
Ridgeville, SC 29475

Exhibit
"SC SUPREME
COURT"
=

RE: The State v. Timothy James Wright, Appellate Court Case Number 2015-000636

Dear Mr. Wright:

This responds to your documents dated December 10, 2017. These documents were received by this Court on December 20, 2017, in an envelope post-marked December 18, 2017.

To the extent you may be seeking to proceed *pro se* regarding any review by this Court of the decision of the South Carolina Court of Appeals in the above case, this motion is unnecessary since there is no right to counsel in a proceeding seeking discretionary review under Rule 242 of the South Carolina Appellate Court Rules (SCACR). *Wainwright v. Torna*, 455 U.S. 586, 102 S.Ct. 1300, 71 L.Ed.2d 475 (1982) (no Sixth Amendment right to counsel in pursuing discretionary appeal); *Ross v. Moffitt*, 417 U.S. 600, 94 S.Ct. 2437, 41 L.Ed.2d 341 (1974) (no Fourteenth Amendment right to counsel when pursuing discretionary appeal after an appeal of right); *Douglas v. State*, 369 S.C. 123, 631 S.E.2d 542 (2006) (no constitutional right to the effective assistance of counsel when seeking discretionary appellate review, and counsel is not required to seek a writ of certiorari after a criminal appeal is decided by the Court of Appeals); *State v. Clinkscales*, 318 S.C. 513, 458 S.E.2d 548 (1995) (Sixth Amendment right to

counsel "extends only to the first right of appeal"). Therefore, no action will be taken on this motion by this Court.

Instead, assuming that there is ultimately a final decision of the Court of Appeals that is subject to review by this Court,¹ you may file a *pro se* petition for a writ of certiorari and appendix within the time specified by Rule 242, SCACR. Once you file the petition for a writ of certiorari and appendix with this Court, this office will open a case file and assign an appellate case number.

I have enclosed a copy of Rule 242, SCACR. This rule sets forth all of the requirements for seeking review from this Court.

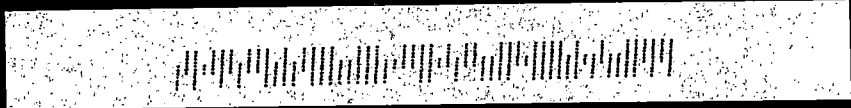
Sincerely,

A handwritten signature in black ink, appearing to read "D. E. Shearouse", with a long horizontal flourish extending to the right.

Daniel E. Shearouse

cc: Robert M. Dudek, Esquire
Kristy Grafton Goldberg, Esquire
Alan McCrory Wilson, Esquire
Donald J. Zelenka, Esquire
Alphonso Simon, Jr., Esquire
The Honorable Jenny Abbott Kitchings (with copy of *pro se* documents)

¹ It does not appear that petition for rehearing has been made to and ruled on by the Court of Appeals. Therefore, there is currently no final decision that can be reviewed by this Court under Rule 242(a) and (c), SCACR (only a final decision of the Court of Appeals is subject to review and a decision of the Court of Appeals is not final for the purpose of review by the Supreme Court until the Court of Appeals has acted on a petition for rehearing or reinstatement).



LAW OFFICE OF
Kristy Grafton Goldberg, LLC
ATTORNEY AT LAW
1720 MAIN STREET, SUITE 303
COLUMBIA, SOUTH CAROLINA 29201

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SC Court of Appeals

Jenny Abbott Kitchings
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Columbia, South Carolina 29211